

# RISQ Review

## PROPERTY & CASUALTY INSURANCE

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### HOW TO PROTECT SUPPLY CHAINS FROM CYBERCRIME, NATURAL DISASTERS AND MORE

“Unprecedented congestion, rising freight costs and limited availability of raw materials and key consumer goods have forced businesses this past year to think both proactively and reactively when it comes to risk management. An effective risk management program should be holistic — focusing on identifying deficits in supply chain management — as well as developing mitigation strategies that better position businesses to prevent service interruptions, control costs and maintain customer satisfaction.” [Full Article](#)

*Supply Chain Brain*

### COMMERCIAL PROPERTY INSURANCE — MARKET OUTLOOK

“The commercial property insurance market has hardened in recent years, resulting in quarterly rate increases since Q3 2017. Unfortunately, these rate increases—as well as additional policy restrictions—are expected to continue in 2022. Yet, this market may showcase some signs of moderation compared to 2021’s trends. It’s predicted that many insureds will experience single- or double-digit rate increases, lowered available capacity, higher sublimits, and various policy restrictions or exclusions—especially regarding losses tied to weather events or the COVID-19 pandemic.” [Full Article](#)

*Zywave*



### EMPLOYMENT PRACTICES LIABILITY INSURANCE — MARKET OUTLOOK

“Like many other lines of insurance, the employment practices liability (EPL) insurance market has hardened. This is due, in part, to a higher frequency and severity of claims in recent years, as well as increased legislative activity at both the state and federal levels. In 2022, the EPL rate environment is anticipated to improve slightly over 2021. Yet, it’s predicted that most policyholders will still experience rate increases in 2022.” [Full Article](#)

*Zywave*



### CENTERS FOR MEDICARE & MEDICAID BARRED FROM ENFORCING MANDATORY COVID-19 VACCINE RULE IN 10 STATES

“A federal court has granted 10 states' request for a preliminary injunction precluding CMS from enforcing its COVID-19 vaccine mandate for healthcare workers in Alaska, Arkansas, Iowa, Kansas, Missouri, Nebraska, New Hampshire, North Dakota, South Dakota, and Wyoming. The court found that the plaintiff-states were likely to succeed in establishing that CMS' IFR is arbitrary or capricious under the Administrative Procedures Act.” [Full Article](#)

*Jackson Lewis P.C.*



### DISTRICT COURT FINDS NO MENTAL HEALTH PARITY VIOLATION, DESPITE OFFENDING PLAN PROVISIONS

“Although this case illustrates the uphill road faced by plan participants alleging MHPAEA violations, it also serves as a warning of the costly litigation expenses that a plan may face due to allegations of a parity violation -- especially when the plan's coverage standards differ between medical/surgical and mental health benefits.” [Full Article](#)

*Thomson Reuters / EBIA*

### IN THE YEARS BEFORE THE COVID-19 PANDEMIC, NEARLY 13 MILLION ADULTS DELAYED OR DID NOT GET NEEDED PRESCRIPTION DRUGS BECAUSE OF COSTS

“Nearly all Medicare beneficiaries and more than 8 in 10 privately insured adults with unmet needs have been diagnosed with a chronic condition. More than one-quarter of adults with Medicare (25.4 percent) and 5.3 percent of privately insured adults spent more than 1 percent of their family incomes on their individual out-of-pocket prescription drug costs.” [Full Article](#)

*Urban Institute*



### EMPLOYER CHECKLIST FOR NEW HEALTH PLAN PRICE TRANSPARENCY RULES AND CAA

“Several provisions of the Consolidated Appropriations Act (CAA) of 2021 and related regulations, and the Transparency in Coverage Rule that will have a large impact on self-funded health plans are effective in January 2022, including requirements related to surprise billing. This checklist is designed to help employers with self-funded health plans be aware of the obligations imposed by these laws and the steps they may need to take to comply.” [Full Article](#)

*Foley & Lardner LLP*

# RISQ Review

## EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

### IS THE CUSTOMER ALWAYS RIGHT? HOW EMPLOYERS SHOULD RESPOND TO PATRON MISCONDUCT

“As anyone who has worked in a customer-facing job can tell you, dealing with difficult customers often comes with the territory. However, when customer behavior crosses a line into illegal conduct like sexual harassment, both the customer and the employer may find themselves in hot water. Wynn Las Vegas, a Nevada hotel, learned the hard way recently when an appellate court reinstated a lawsuit filed against the hotel by one of Wynn’s employees, Vincent Fried, in *Fried v. Wynn Las Vegas*. Fried argued that Wynn was liable for creating a hostile work environment not because of any harassment by a boss or coworker but rather by a customer.” [Full Article](#)

*Proskauer Rose*



### AS EMPLOYERS RACE TO FILL GAPS IN THE LABOR MARKET, PAY PRACTICES ARE UNDER SCRUTINY

“Many of the companies that were forced to dramatically downsize their workforces in response to the onset of the pandemic are now the same companies struggling to fill the vacancies in their labor forces as the economy recovers. In response to the recent worker shortage, many employers have reassessed their recruiting practices, increased wages, implemented hiring bonuses, or installed flexibility incentives to entice workers. Despite these enhanced incentives, many industries continue to report labor shortages.” [Full Article](#)

*Venable*

### EEOC EXPANDS ITS COVID-19 GUIDANCE TO ADDRESS RETALIATION

“Throughout the pandemic, the Equal Employment Opportunity Commission has continuously updated its [COVID-19 Guidance](#) to provide employers with assistance on issues arising under the antidiscrimination laws that it enforces. This month the EEOC added a new section, simply reminding employers of the existing prohibition on retaliation against employees for exercising rights under these laws.” [Full Article](#)

*Shawe Rosenthal*



### IT'S HERE! FEDERAL CONTRACTOR AFFIRMATIVE ACTION PROGRAM VERIFICATION PORTAL OPENS IN 2022

“In order to increase compliance, in September 2020, the Office of Federal Contract Compliance Programs (OFCCP) requested the Office of Management and Budget (OMB) to approve a new information request providing the collection and monitoring of affirmative action programs (AAPs) through an online platform, also referred to as the verification interface or contractor portal. In August 2021, the OMB approved OFCCP’s information collection request and authorized establishing the contractor portal. Now, OFCCP has announced its schedule for the contractor portal.” [Full Article](#)

*Duane Morris*

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## EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

### FEDERAL DEPARTMENTS SHED LIGHT ON UPCOMING HEALTH PLAN DISCLOSURE REQUIREMENTS

“A collection of federal agencies have announced that they will not start enforcing the reporting requirements until December 27, 2022. The interim final rules (IFR) states that the Departments plan to issue a form with instructions that will give more details for these new requirements. Further, the Departments have announced that they will be developing an internet portal for electronic reporting.” [Full Article](#)

*Fisher Phillips*



### VACCINE MANDATE FOR FEDERAL CONTRACTORS ENJOINED NATIONWIDE

“As we previously reported, President Biden issued Executive Order 14042 (the Order), which mandated that employees of contractors and subcontractors performing work on federal contracts be fully vaccinated against COVID-19 by January 18, 2022. Challengers from seven states—Georgia, Alabama, Idaho, Kansas, South Carolina, Utah and West Virginia (the Plaintiff States)—and various state agencies, filed suit against President Biden and his Administration, seeking injunctive relief against enforcement of the Order. On December 7, 2021, the United States District Court for the Southern District of Georgia granted the motion and issued a nationwide preliminary injunction against the enforcement of the vaccine mandate.” [Full Article](#)

*Epstein Becker Green*

### ILLINOIS IMPOSES GROUP HEALTH COVERAGE DISCLOSURE REQUIREMENTS

“The Illinois [Consumer Coverage Disclosure Act](#), which went into effect on August 27, 2021, requires an employer to notify employees in Illinois who are eligible for its group health plan whether such plan does or does not cover each of the essential health benefits identified by the Illinois DOL. Because this is a disclosure requirement and not a benefits mandate, the Illinois DOL maintains that this requirement also applies to self-funded group health plans regulated by ERISA.” [Full Article](#)

*Haynes and Boone, LLP*



### CMS VACCINE MANDATE BLOCKED NATIONWIDE

“On November 29 and 30, 2021, two separate federal district courts—the Western District of Louisiana and Eastern District of Missouri—issued injunctions blocking enforcement of the Centers for Medicare and Medicaid Services (“CMS”) interim final rule (“vaccine mandate”) requiring healthcare worker vaccinations. In combination, these rulings result in a nationwide preliminary injunction prohibiting CMS from enforcing the vaccine mandate.” [Full Article](#)

*Littler Mendelson*

# RISQ Review

## STATE & INTERNATIONAL COMPLIANCE

### NEW YORK



### NYC ISSUES VACCINE MANDATE FOR PRIVATE EMPLOYERS

“New York City Mayor Bill de Blasio, whose term as mayor ends on January 1, 2022, has announced that the city’s Department of Health will issue a mandate requiring full vaccination of any employee of a private sector business. Details are expected to issue on December 15 flushing out the terms of the mandate, which goes into effect December 27.” [Full Article](#)

*Vinson & Elkins*

### FLORIDA



### FLORIDA MEDICARE AND MEDICAID PROVIDERS' VACCINE MANDATE DILEMMA

“Florida healthcare providers billing federal programs may again face a complicated COVID-19 quandary. The U.S. Court of Appeals for the Eleventh Circuit has denied the state of Florida's request for an injunction against the Centers for Medicare & Medicaid Services (CMS) mandate requiring all staff of Medicare and Medicaid-certified providers and suppliers to be vaccinated.” [Full Article](#)

*Cozen Holland & Knight*

### D.C.



### DC ENACTS (ANOTHER) COVID-19 EMERGENCY LEAVE LAW

“DC Mayor Muriel Bowser signed into law the COVID Vaccination Leave Emergency Amendment Act of 2021 (“Emergency Act”), which requires employers to provide paid leave to employees and their children for time spent obtaining and, if needed, recovering from side effects of a COVID-19 vaccine, and unpaid leave for other COVID-19 related absences. The Emergency Act took effect on November 19, 2021 and is set to expire on February 3, 2022.” [Full Article](#)

*Proskauer Rose*

### WASHINGTON



### WASHINGTON STATE CONTINUES TO MANDATE COVID-19 VACCINATION FOR CERTAIN WORKERS

“Following such states as California, Connecticut, Massachusetts, New Jersey, New York, and Oregon, Washington’s Governor Jay Inslee has issued Proclamation 21-14.3 to require certain workers be fully vaccinated against COVID-19 and provide proof of such vaccination.” [Full Article](#)

*Jackson Lewis*

### UTAH



### UTAH ENACTS LAW RELATED TO COVID-19 VACCINATION AND TESTING REQUIREMENTS IN THE WORKPLACE

“On November 16, 2021, Governor Spencer J. Cox signed SB2004 into law, placing limitations and additional obligations on Utah employers that have implemented vaccine or testing requirements on employees. The law was passed in the Utah Legislature’s second special session of 2021.” [Full Article](#)

*Littler Mendelson*